

ORIGINAL



LAWRENCE V. ROBERTSON, JR.
ATTORNEY AT LAW

P.O. Box 1448
Tubac, Arizona 85646

(520) 398-0411
FAX (520) 398-0412
Email: TubacLawyer@aol.com

OF COUNSEL TO
MUNGER CHADWICK, P.L.C.

ADMITTED TO PRACTICE IN:
ARIZONA, COLORADO, MONTANA,
NEVADA, TEXAS, WYOMING,
DISTRICT OF COLOMBIA

August 16, 2006

Shaunna Lee-Rice
Docket Control
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

Arizona Corporation Commission

DOCKETED

AUG 18 2006

DOCKETED BY	nr
-------------	----

Re: Bowie Power Station
Docket No. L-00000BB-01-0118
Decision No. 64625

Dear Ms. Lee-Rice,

Enclosed for filing in the above-referenced docket are the original and thirteen (13) copies of a Request For Extension Of Certificate Of Environmental Compatibility Expiration Date of Decision No. 64625 ("Request For Extension") on behalf of Bowie Power Station, L.L.C. ("Bowie").

Also enclosed are two (2) additional copies of the Request For Extension. I would appreciate it if you would "filed" stamp the same and return them to me in the enclosed stamped and addressed envelope.

Thank you for your assistance with regard to this matter.

Sincerely,

Lawrence V. Robertson, Jr.

Lawrence V. Robertson, Jr.

RECEIVED
2006 AUG 18 P 4:20
AZ CORP COMMISSION
DOCUMENT CONTROL

ORIGINAL

RECEIVED

BEFORE THE ARIZONA CORPORATION COMMISSION

2006 AUG 18 P 4: 20

JEFF HATCH-MILLER

Chairman

WILLIAM A. MUNDELL

Commissioner

MIKE GLEASON

Commissioner

KRISTIN K. MAYES

Commissioner

BARRY WONG

Commissioner

AZ CORP COMMISSION
DOCUMENT CONTROL

Arizona Corporation Commission

DOCKETED

AUG 18 2006

DOCKETED BY

nr

IN THE MATTER OF THE APPLICATION OF) DOCKET NO. L-00000BB-01-0118
BOWIE POWER STATION, L.L.C., IN)
CONFORMANCE WITH REQUIREMENTS OF) (DECISION NO. 64625)
ARIZONA REVISED STATUTES 40-360.03 AND)
40-360.06 FOR TWO CERTIFICATES OF)
ENVIRONMENTAL COMPATABILITY)
AUTHORIZING CONSTRUCTION OF A 1,000)
MEGAWATT NATURAL GAS-FIRED,)
COMBINED-CYCLE POWER PLANT, 345 kV) REQUEST FOR EXTENSION OF
AND 345 kV/230 kV SWITCHYARDS, 345 kV 230) CERTIFICATE OF
kV INTERCONNECTION AND RELATED) ENVIRONMENTAL
FACILITIES IN COCHISE AND GRAHAM) COMPATIBILITY EXPIRATION
COUNTIES, ARIZONA. THE PROPOSED) DATE
POWER STATION SITE IS LOCATED IN)
SECTIONS 28 AND 29, TOWNSHIP 12 SOUTH,)
RANGE 28 EAST, TOWNSHIP 11 SOUTH,)
RANGE 28 EAST, TOWNSHIP 11 SOUTH,)
RANGE 27 EAST, AND TOWNSHIP 11 SOUTH,)
RANGE 26 EAST, GILA AND SALT RIVER BASE)
AND MERIDIAN)

By means of this filing, and pursuant to A.R.S. § 40-252, Bowie Power Station, L.L.C.
("Bowie") is requesting an extension of the expiration date set forth in Decision No. 64625 from
March 7, 2007 until (i) December 31, 2008 or (ii) that date upon which the Commission issues a
final and non-appealable decision in a separate proceeding regarding whether the Certificate of

MUNGER CHADWICK, P.L.C.
ATTORNEYS AT LAW
NATIONAL BANK PLAZA
333 NORTH WILMOT, SUITE 300
TUCSON, ARIZONA 85711
(520) 721-1900

1
2 Environmental Compatibility ("CEC") granted by Decision No. 64625 should be altered or
3 amended, whichever is sooner. A copy of Decision No. 64625 is attached hereto as Appendix
4 "A" and incorporated herein by reference.
5

6
7
8 **I.**
9 **BACKGROUND**

10 On January 3, 2002 the Arizona Power Plant and Transmission Line Siting Committee
11 ("Siting Committee") voted 9-1 to grant Bowie a CEC authorizing it to site and construct a
12 natural gas-fired, combined cycle electric generating plant with an operating capacity not to
13 exceed a minimal site rating of 1,000 megawatts (MW), as more particularly described in
14 Decision No. 64625 (at page 2, lines 21-26 and page 3, lines 1-5) and the underlying evidentiary
15 record. On March 7, 2002, the Commission affirmed the vote of the Siting Committee, with
16 certain added conditions, and formally granted the aforesaid CEC by the issuance of Decision
17 No. 64625. Condition No. 22 of the decision provided as follows:

18 "22. This authorization to site and construct the Project facilities
19 shall expire five (5) years from the date this Certificate is approved
20 by the Commission, unless construction is completed and the plant
21 is in operation. If construction on a power block has not begun
22 before the expiration of the five-year limit, Applicant shall no
23 longer be authorized to begin construction on such power block.
24 However, before such expiration, Applicant may request that the
25 Commission extend this time limitation". [Decision No. 64625 at
26 page 10, lines 3-8] [Emphasis added]

27
28 **II.**
CIRCUMSTANCES OCCASIONING REQUEST
FOR EXTENSION OF EXPIRATION DATE

As indicated in Decision No. 64625, the 1,000 MW natural gas-fired, combined cycle
electric generating plant therein authorized was intended primarily to service southeastern
Arizona markets. However, subsequent to the issuance of that decision, the previously

1
2 contemplated market opportunities were not realized in large measure because of (i) substantial
3 increases in the price of natural gas supplies and transportation rates, and (ii) increasing volatility
4 in natural gas prices. As a consequence, after several years of unsuccessful efforts to
5 contractually market the electrical output of the Bowie Power Station on a long-term basis,
6 including participation in several competitive power procurements conducted by Arizona Public
7 Service Company ("APS") and Tucson Electric Power Company ("TEP"), Bowie decided to re-
8 examine and re-evaluate its previous fuel supply choice. That re-examination and re-evaluation
9 has resulted in a decision by Bowie to change the Bowie Power Station design from a natural
10 gas-fired, combined cycle 1,000 MW electric generating plant to an integrated gas combined
11 cycle ("IGCC") facility of approximately 560 MW generating capability.
12

13
14 Bowie believes that the contemplated design change, with the attendant use of a different
15 and more abundant and stable fuel supply, will enable it to offer electrical output from the Bowie
16 Power Station at competitive prices in both its originally intended market area and in the rapidly
17 developing central Arizona market area. However, this change in fuel system design and plant
18 sizing also will necessitate an alteration or amendment of the CEC granted to Bowie in Decision
19 No. 64625. Accordingly, Bowie has concluded to file this request, together with the request
20 which is being contemporaneously filed in connection with the CEC granted in Decision No.
21 64626.
22

23 **III.**
24 **EXPLANATION OF PROPOSED PERIOD OF EXTENSION**

25 As indicated above, Bowie is requesting an extension of the expiration date for the CEC
26 granted in Decision No. 64625 from the current March 7, 2007 date to the earlier of (i)
27 December 31, 2008 or (ii) that date upon which the Commission issues a final and non-
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

appealable decision in a separate proceeding regarding whether the CEC granted in Decision No. 64625 should be altered or amended. Bowie currently anticipates that it will be filing its request for such a separate proceeding (and an alteration or amendment of its CEC) pursuant to A.R.S. § 40-252 within the next few weeks. At this juncture, it does not know when a hearing on such request might occur, or when a final and non-appealable decision by the Commission thereon might be issued. However, Bowie has assumed for purposes of this request that such events would take place no later than December 31, 2008.

IV.
CONCLUSION

WHEREFORE, Bowie hereby requests that the Commission issue an appropriate form of decision or order extending the expiration date for the CEC granted in Decision No. 64625 from the current March 7, 2007 date to the earlier of (i) December 31, 2008 or (ii) that date upon which the Commission issues a final and non-appealable decision in a separate proceeding regarding whether the CEC granted in Decision No. 64625 should be altered or amended.

Dated this 16th day of August 2006.

Respectfully submitted,

Lawrence V. Robertson, Jr.
Munger Chadwick, P.L.C.

and

Richard W. Tobin, II
Lewis and Roca, L.L.P.

Attorneys for Bowie Power

Station, L.L.C.

By Lawrence V. Robertson, Jr.
Lawrence V. Robertson, Jr.

Original and thirteen (13) copies of the
foregoing mailed this 16th day
of August, 2006 to:

Docket Control
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

A copy of the same served by e-mail or First
Class mail this same date upon:

Laurie A. Woodall, Chairman
Arizona Power Plant and Transmission Line Siting Committee
Office of the Attorney General
1275 West Washington Street
Phoenix, Arizona 85007

Ernest Johnson, Director
Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Christopher Kempley, Chief Counsel
Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

APJ.

APPENDIX “A”

MAR 07 2002

BEFORE THE ARIZONA POWER PLANT
AND LINE SITING COMMITTEE

DOCKETED BY

✓

CASE NO. 118

Docket No. L-00000BB-01-0118

(POWER PLANT)

DECISION NO. 64625

IN THE MATTER OF THE APPLICATION OF
BOWIE POWER STATION, L.L.C., IN
CONFORMANCE WITH REQUIREMENTS
OF ARIZONA REVISED STATUTES 40-360.03
AND 40-360.06 FOR TWO CERTIFICATES OF
ENVIRONMENTAL COMPATIBILITY
AUTHORIZING CONSTRUCTION OF A
1,000 MEGAWATT NATURAL GAS-FIRED,
COMBINED-CYCLE POWER PLANT, 345 kV
AND 345 kV/230kV SWITCHYARDS, 345 kV
230 kV INTERCONNECTION AND RELATED
FACILITIES IN COCHISE AND GRAHAM
COUNTIES, ARIZONA. THE PROPOSED
POWER STATION SITE IS LOCATED IN
SECTIONS 28 AND 29, TOWNSHIP 12 SOUTH,
RANGE 28 EAST, TOWNSHIP 11 SOUTH,
RANGE 28 EAST, TOWNSHIP 11 SOUTH,
RANGE 27 EAST, AND TOWNSHIP 11 SOUTH,
RANGE 26 EAST, GILA AND SALT RIVER BASE
AND MERIDIAN

The Arizona Corporation Commission ("Commission") has conducted its review, as prescribed by A.R.S. § 40-360.07. Pursuant to A.R.S. § 40-360.07, the Commission, in compliance with A.R.S. § 40-360.06 and in balancing the broad public interest, the need for an adequate, economical and reliable supply of electric power with the desire to minimize the effect thereof on the environment and ecology of this state:

The Commission finds and concludes that the Certificate of Environmental Compatibility ("CEC") issued by the Arizona Power Plant and Transmission Line Siting Committee for Applicant's Power Plant is granted as modified and amended by this Order.

The Commission modifies Condition Number 2 with an additional provision as follows:

2(F). Make arrangements with local and county law enforcement to support their efforts to serve and protect the public and the Project and its employees.

1 The Commission modifies Condition Number 3(A) as follows:

2 3(A). In the event of the occurrence of an "alert condition," as defined in the Monitoring
3 Program, Applicant, ADWR, Cochise County and the United States Geological
4 Survey ("USGS") shall confer as to the investigative and/or mitigation program(s), if
5 any, to be undertaken in response to such "alert condition." In the event Applicant,
6 ADWR, Cochise County and USGS are unable to agree as to the program(s) or
7 course(s) of action to be undertaken, Applicant shall refer the matter to the
8 Commission for a hearing and decision to determine the investigative and/or
9 mitigation programs, if any, to be undertaken in response to such "alert condition."
10 Copies of a written report describing the nature and manner of resolution of each such
11 "alert condition" as may be observed will be distributed by Applicant to ADWR,
12 Cochise County, USGS and the Commission.

13
14 The Commission modifies the CEC to add the following two conditions:

15 23. Applicant shall enter into a groundwater monitoring program, at Applicant's sole
16 expense, with the Arizona Department of Water Resources within 180 days of this
17 decision. Applicant shall annually provide copies of any and all reports,
18 correspondence or data from such program to the Town of Bowie, the Pistachio Pass
19 Irrigation District and the Cochise County Board of Supervisors. None of these
20 documents shall be considered proprietary or confidential under Arizona Public
21 Records Law.

22
23 A. Commencing with the first year of commercial operation of the initial power
24 block of the Project, Applicant shall annually contribute One Hundred
25 Thousand Dollars (\$100,000) to a Groundwater Impact Mitigation Fund
26 (Fund) to be established and maintained by Applicant at a national or state-
27 chartered bank. Such contribution obligation shall be suspended whenever the
28

1 balance in the Fund reaches the principal amount of Five Hundred Thousand
2 Dollars (\$500,000). Interest earned on the Fund shall belong to Applicant.

3
4 B. Persons claiming property or economic damage as a result of ground water
5 decline allegedly directly attributable to Project operation may submit a claim
6 for mitigation payment to Applicant. Applicant shall investigate the
7 circumstances surrounding the claim and make a determination, if possible, as
8 to the cause of the claimant's alleged property or economic damage. If it is
9 determined that the damage in question has been caused by Project operations,
10 funds shall be disbursed from the Fund to compensate claimant for the amount
11 of damage determined to be directly attributable to the Project. If the cause or
12 amount of the alleged damage is in dispute, Applicant agrees to submit the
13 matter to binding arbitration with the American Arbitration Association, if the
14 person claiming damage agrees.

15
16 C. The Groundwater Impact Mitigation Fund account shall be maintained for
17 three (3) years after the end of the Project's economic life, as determined by
18 Applicant. Once the three (3) year period has passed, the account shall be
19 closed, and any remaining funds shall be disbursed back to Applicant.

20
21 24. The Applicant, its successor(s) or assignee(s) shall submit a self-certification letter
22 annually, identifying which conditions contained in the CEC as amended, have been
23 met. Each letter shall be submitted to the Utilities Division Director on December 31,
24 beginning in 2002, describing conditions which have been met as of November 30.
25 Attached to each certification letter shall be documentation explaining, in detail, how
26 compliance with each condition was achieved. Copies of each letter, along with the
27 corresponding documentation, shall also be submitted to the Arizona Attorney General
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

and the Directors of the Arizona Department of Environmental Quality, Department of
Water Resources, and Department of Commerce Energy Office.


APPROVED AS AMENDED BY ORDER OF THE
ARIZONA CORPORATION COMMISSION


CHAIRMAN


COMMISSIONER


COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
Secretary of the Arizona Corporation Commission, have
hereunto, set my hand and caused the official seal of the
Commission to be affixed at the Capitol, in the City of Phoenix,
this 7th day of MARCH, 2002.


BRIAN C. McNEIL
Executive Secretary

DISSENT: _____

1 **BEFORE THE ARIZONA POWER PLANT AND**
2 **TRANSMISSION LINE SITING COMMITTEE**

3 IN THE MATTER OF THE APPLICATION OF BOWIE)
POWER STATION, LLC, IN CONFORMANCE WITH)
4 THE REQUIREMENTS OF ARIZONA REVISED)
STATUTES 40-360.03 AND 40-360.06, FOR TWO)
5 CERTIFICATES OF ENVIRONMENTAL)
COMPATIBILITY AUTHORIZING CONSTRUCTION)
6 OF ANOMINAL 1,000 MEGAWATT NATURAL GAS-)
FIRED, COMBINED-CYCLE POWER PLANT, 345KV)
7 and 345KV/230KV SWITCHYARDS, 345KV DOUBLE-)
CIRCUIT TRANSMISSION LINE AND 230KV)
8 INTERCONNECTION AND RELATED FACILITIES IN)
COCHISE AND GRAHAM COUNTIES, ARIZONA.)
9 THE PROPOSED POWER STATION SITE IS)
LOCATED IN SECTIONS 28 AND 29, TOWNSHIP 12)
10 SOUTH, RANGE 28 EAST, AND THE PROPOSED)
TRANSMISSION LINE ROUTE IS LOCATED IN)
11 TOWNSHIP 12 SOUTH, RANGE 28 EAST, TOWNSHIP)
11 SOUTH, RANGE 28 EAST, TOWNSHIP 11 SOUTH,)
12 RANGE 27 EAST, AND TOWNSHIP 11 SOUTH,)
RANGE 26 EAST, GILA AND SALT RIVER BASE)
13 AND MERIDIAN.)

CASE NO. L00000BB-01-0118

(Case No. 118)

DECISION NO. _____
(POWER PLANT)

14
15 **DECISION OF THE ARIZONA POWER PLANT AND TRANSMISSION LINE SITING**
16 **COMMITTEE AND CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY**

17 Pursuant to notice given, as provided by law, the Arizona Power Plant and Transmission Line
18 Siting Committee ("Committee") held public hearings at the Best Western Plaza, 1100 Rex Allen Drive,
19 Willcox, Arizona on October 11-12, 2001, and at the Embassy Suites, 1515 North 44th Street, Phoenix,
20 Arizona on December 10-11, 2001, in conformance with the requirements of Arizona Revised Statutes
21 §40-360 et. seq., for the purpose of receiving evidence and deliberating upon the Application, of Bowie
22 Power Station, L.L.C. and its assigns ("Applicant") for a Certificate of Environmental Compatibility
23 ("Certificate") in the above-captioned case.

24 The following members and designees of members of the Committee were present for the
25 evidentiary presentation during all or portions of the aforesaid hearings and/or deliberation and vote
26 on the Application:

27 Laurie A. Woodall

Chair, and Designee for Arizona
Attorney General

28 Ray Williamson

Designee for Chairman of
Arizona Corporation Commission

1	Mark McWhirter	Designee for Director of Energy Office of
2		Arizona Department of Commerce
3	Patrick Schiffer	Designee for Director of Arizona Department of
4		Water Resources
5	Richard Tobin	Designee for Director of Arizona Department of
6		Environmental Quality
7	Jeff McGuire	Appointed Member
8	Mike Palmer	Appointed Member
9	A. Wayne Smith	Appointed Member
10	Sandie Smith	Appointed Member
11	Margaret Trujillo	Appointed Member
12	Mike Whalen	Appointed Member

12 The Applicant was represented by Lawrence V. Robertson, Jr. The Arizona Corporation
 13 Commission ("Commission") staff was represented by Jason D. Gellman. Wayne Bryant appeared on
 14 his own behalf as an individual intervenor.

5 At the conclusion of the public hearings, after consideration of (i) the Application and the
 16 evidence presented during the public hearings, (ii) the closing arguments of the parties, and (iii) the
 17 legal requirements of Arizona Revised Statutes §40-360 through §40-360.13 and A.A.C. R14-3-213,
 18 upon motion duly made and seconded, by a 9-1 vote the Committee voted to grant the Applicant the
 19 following Certificate.

20 Applicant is hereby granted a Certificate to site and construct the following facilities ("Project"):

21 A natural gas fired, combined cycle electric generating plant with an
 22 operating capability not to exceed a nominal site rating of 1000
 23 megawatts (MW). The facilities shall consist of up to two (2) power
 24 blocks, each rated up to 500 MW nominal. Each power block shall
 25 consist of (i) two combustion turbine generators (CTG), (ii) two heat
 26 recovery steam generators (HRSG) and (iii) one steam turbine electric
 27 generator. The plant design may also incorporate supplementary or
 duct-firing of the HRSG for a given power block. The duct-firing
 design would be incorporated in the HRSG's. The power plant and
 supporting infrastructure shall be located in Section 28 and a portion of
 Section 29, Township 12 South, Range 28 East, G&SRB&M.

As testified to by the Applicant during the public hearings, electric power and energy produced
 at the Bowie Power Station are intended primarily to serve Southeastern Arizona markets. The

1 supporting power plant infrastructure shall include (i) an air pollution control system, (ii) water handling
2 and treatment facilities, (iii) fuel system, (iv) instrumentation and control system, (v) switchyard and
3 electrical interconnection(s), (vi) chemical and petroleum product storage facilities, (vii) vehicular
4 access facilities, (viii) evaporation ponds, and (ix) other site improvements. Each of these infrastructure
5 components is described in some detail in the Application.

6 In connection with the design and construction of Project facilities, Applicant shall use low
7 profile structures, moderate stacks, neutral colors, compatible landscaping and low intensity directed
8 lighting for the power plant. The transmission facilities shall include the use of non-reflective
9 conductors and towers. In addition, Applicant shall use a zero discharge system for cooling water,
10 subject to existing regulatory requirements. Further, Applicant shall operate the evaporation ponds so
11 that any salt residue(s) contained therein shall not cause damage to crops grown on fields adjacent to
12 the Project site.

13 This Certificate is further granted upon the following conditions.

14 1. Applicant shall comply with all existing applicable air and water pollution control
15 standards and regulations, and with all existing applicable ordinances, master plans and
16 regulations of the State of Arizona, Cochise County and Graham County, the United
17 States of America, and any other governmental entities having jurisdiction, including but
18 not limited to the following:

- 19 A. all applicable zoning stipulations and conditions, including but not limited to
20 landscaping and dust control requirements and/or approvals;
21 B. all applicable air quality control standards, approvals, permit conditions and
22 requirements of the Arizona Department of Environmental Quality ("ADEQ")
23 and/or other State of Arizona or Federal agencies having jurisdiction, and
24 Applicant shall install and operate selective catalytic reduction at the level
25 determined by ADEQ.
26 C. all applicable water use and conservation requirements of the Arizona
27 Department of Water Resources ("ADWR").
D. all applicable water use and discharge requirements of ADEQ.

- 1 E. all applicable noise control standards, and during normal operations the project
2 shall not exceed applicable (i) HUD or EPA residential noise guidelines or (ii)
3 OSHA worker safety noise standards; and
4 F. all applicable regulations and permits governing storage and handling of
5 chemical and petroleum products;

6 In connection with approvals of or permits for Project facilities to be issued by Cochise County or
7 Graham County, Applicant shall attach a copy of this Decision and Certificate to any applications or
8 requests it submits to such counties. A courtesy copy will also be provided to the community of Bowie
9 and the City of Willcox.

10 2. In anticipation of the impact of the Project upon the demand for local services, and prior
11 to the commencement of construction, Applicant shall do the following:

- 12 A. Donate to the Bowie Fire District ("Fire District") as a capital outlay to enable
13 it to acquire, through purchase or lease, an additional emergency services
14 vehicle, with the manner of acquisition to be determined by the Fire District. In
15 addition, funds will be provided to assist the Fire District to train its personnel
16 and/or volunteers in emergency response and the handling of hazardous
17 materials.
18 B. Donate to the Bowie School District ("School District") such additional
19 classrooms and portable classrooms, together with related utility hook-ups, in
20 the event the Superintendent of the School District concludes that formally
21 adopted student-teacher ratios will be exceeded by reason of the construction
22 of Project facilities.
23 C. Make arrangements with high schools in the Bowie and Willcox area to support
24 science and vocational academic and training programs.
25 D. Make arrangements that state and local employment agencies be consulted in
26 connection with the hiring of employees for the construction and operation of
27 Project facilities.

1 E. Make arrangements with Cochise County to address and resolve traffic control
2 problems and concerns, including consideration of paving roads, adding traffic
3 lights and/or staggering Project construction work shift changes.

4 3. ^{F- See Insert} In connection with the engineering, design, construction, operation and maintenance of
5 the Project facilities, Applicant and its consultants and contractors shall apply
6 recognized and accepted geotechnical engineering and civil engineering standards and
7 practices. In addition, Applicant shall implement the Ground Subsidence and Earth
8 Fissure Monitoring Program agreed to between Applicant and the Arizona Department
9 of Water Resources, which was received into evidence as Exhibit No. A-11, and as
10 amended by Exhibit No. A-20.

11 *Added* (A. In the event of the occurrence of an "alert condition," as defined in the
12 Monitoring Program, Applicant, ADWR, Cochise County and the United States
13 Geological Survey ("USGS") shall confer as to the investigative and/or
14 mitigation program(s), if any, to be undertaken in response to such "alert
15 condition." In the event Applicant, ADWR, Cochise County and USGS are
16 unable to agree as to the program(s) or course(s) of action to be undertaken,
17 Applicant shall refer the matter to the Commission for a hearing and decision
18 to determine the investigative and/or mitigation programs, if any, to be
19 undertaken in response to such "alert condition."

20 B. Commencing with the fifth year of commercial operation of the initial power
21 block of the Project, Applicant shall annually contribute One Hundred Thousand
22 Dollars (\$100,000) to a Subsidence Mitigation Fund ("Fund") to be established
23 and maintained by Applicant at a national or state-chartered bank. Such
24 contribution obligation shall be suspended whenever the balance in the Fund
25 reaches the principal amount of Five Hundred Thousand Dollars (\$500,000).
26 Interest earned on the Fund shall belong to Applicant.

27 C. Persons claiming property damage as a result of ground subsidence allegedly
28 directly attributable to Project operation may submit a claim for mitigation

1 payment to Applicant. Applicant shall investigate the circumstances
2 surrounding the claim and make a determination, if possible, as to the cause of
3 the claimant's alleged property damage. If it is determined that the damage in
4 question has been caused by Project operations, funds shall be disbursed from
5 the Fund to compensate claimant for the amount of damage determined to be
6 directly attributable to the Project. If the cause or amount of the alleged damage
7 is in dispute, Applicant agrees to submit the matter to binding arbitration with
8 the American Arbitration Association, if the person claiming damage agrees.

9 D. The Subsidence Mitigation Fund account shall be maintained for three (3) years
10 after the end of the Project's economic life, as determined by Applicant. Once
11 the three (3) year period has passed, the account shall be closed, and any
12 remaining funds shall be disbursed back to Applicant.

13 4. Applicant shall prepare a plan for shutdown, decommissioning and cleanup of the plant
14 site that shall be filed with the Commission's Docket Control section within one year
15 of beginning construction. Such plan shall provide for a return of the power plant site
16 to original pre-construction grade elevation. In that regard, the Committee
17 recommends that Applicant work with Cochise County and/or any other local governing
18 body with jurisdiction over the plant site to ensure that such plan is reasonable, and is
19 followed or amended as needed.

20 5. Applicant, its affiliates, successors and assignees may withdraw groundwater for
21 electrical generation and related uses, to include but not limited to landscape
22 maintenance, in an amount not to exceed 55,000 acre-feet per ten-year period as
23 determined by using a ten-year rolling average commencing on the date the Bowie
24 Power Station first begins withdrawing groundwater in connection with the Project;
25 provided, however, Applicant's withdrawal in any given year shall not exceed 6,000
26 acre-feet.

27 6. Applicant's plant interconnection must satisfy the Western Systems Coordinating
28 Council's ("WSCC") single contingency outage criteria (N-1) and all applicable local

1 utility planning criteria without reliance on remedial action such as reducing generator
2 output, generator unit tripping or load shedding.

- 3 7. Prior to construction of any facilities, Applicant must provide the Commission with
4 technical study evidence that sufficient transmission capacity exists to accommodate the
5 full output of the plant and that the full output of the plant shall not compromise the
6 reliable operation of the interconnected transmission system. The technical studies shall
7 include a power flow and stability analysis report showing the effect of the plant on the
8 existing Arizona electric transmission system. The technical study report(s) shall
9 document both physical flow capability as well as contractual schedule capability to
10 deliver full plant output to its intended market. In addition, Applicant must provide the
11 Commission with updates to the information required in this condition not more than
12 one year and not less than three months prior to commercial operation of the plant.
13 Prior to commencing operation of a given power block, transmission facilities
14 improvements necessary to deliver the full output of that power block to intended
15 markets, as identified in the aforesaid technical studies, shall have been completed.
- 16 8. Applicant shall become and remain a member of the WSCC, or its successor, and file
17 an executed copy of its WSCC Reliability Management System ("RMS") Generator
18 Agreement with the Commission. Membership by an affiliate of Applicant satisfies this
19 condition only if Applicant is bound by the affiliate's WSCC membership.
- 20 9. Applicant shall apply to become, and if accepted, thereafter remain a member of the
21 Southwest Reserve Sharing Group or its successor, thereby making its units available
22 for reserve sharing purposes, subject to competitive pricing.
- 23 10. Applicant shall continue to participate in good faith in state and regional transmission
24 study forums to identify and encourage expedient implementation of transmission
25 enhancements, including transmission cost participation as appropriate, to reliably
26 deliver power from the Project throughout the WSCC grid in a reliable manner.
- 27 11. Applicant shall first offer wholesale power purchase opportunities to credit-worthy
28 Arizona load-serving entities and to credit-worthy marketers providing service to those
Arizona load-serving entities.

1 12. Applicant shall offer for Ancillary Services, in order to comply with WSCC RMS
2 requirements, a total of up to 10% of its total plant capacity to (A) the local Control
3 Area with which it is interconnected and (B) Arizona's regional ancillary service
4 market, (i) once a Regional Transmission Organization (RTO) is declared operational
5 by FERC order, and (ii) until such time that an RTO is so declared, to a regional reserve
6 sharing pool.

7 13. Pursuant to applicable Federal Energy Regulatory Commission ("FERC"), regulations,
8 Applicant shall not knowingly withhold its capacity from the market for reasons other
9 than a forced outage or pre-announced planned outage.

10 14. Within 30 days of the Commission decision authorizing construction of the Project,
11 Applicant shall erect and maintain at the site a sign of not less than 4 feet by 8 feet
12 dimensions, advising:

- 13 A. that the site has been approved for the construction of a 1000 megawatt
14 (nominal) generating facility;
15 B. the expected date of completion of the Project; and
16 C. phone number for public information regarding the Project.

17 In the event that Applicant requests an extension of the term of the Certificate prior to
18 completion of the construction, Applicant shall use reasonable means to directly notify all landowners
19 and residents within one-mile radius of the Project of the time and place of the proceeding in which
20 the Commission shall consider such request for extension. Applicant shall also provide notice of such
21 extension to Cochise County, Graham County, the community of Bowie and the City of Willcox.

22 15. Applicant shall pursue all necessary steps to ensure a reliable supply and delivery of
23 natural gas for the generating facility.

24 16. In connection with the construction of the Project, Applicant shall use commercially
25 reasonable efforts, where feasible, to give due consideration to use of qualified Arizona
26 contractors. In addition, Applicant shall encourage the hiring of qualified local
27 employees in connection with construction and operation of the Project facilities.
28

- 1 17. Applicant shall participate in good faith in state and regional workshops and other
2 assessments of the interstate gas and pipeline infrastructure.
- 3 18. Within five days of Commission approval of this CEC, Applicant shall request in writing
4 that El Paso Natural Gas Company ("El Paso") provide Applicant with a written report
5 describing the operational integrity of El Paso's Southern System facilities through the
6 Bowie and San Simon areas. Such request shall include:
- 7 A. a request for information regarding inspection, replacement and/or repairs
8 performed on this segment of El Paso's pipeline facilities since 1996 and those
9 planned through 2006; and
- 10 B. an assessment of subsidence impacts on the integrity of this segment of pipeline
11 over its full cycle, together with any mitigation steps taken to date or planned
12 in the future.
- 13 Applicant shall file El Paso's response under this docket with the Commission's Docket
14 Control. Should El Paso not respond within thirty (30) days, Applicant shall docket a copy of
15 Applicant's request with an advisory of El Paso's failure to respond. In either event, Applicant's
16 responsibility hereunder shall terminate once it has filed El Paso's response or Applicant's advisory of
17 El Paso's failure to respond.
- 18 19. In conjunction with its construction of the Project facilities, Applicant shall implement
19 the Landscape Plan set forth at Exhibit B-2 to the Application [Ex. #A-1].
- 20 20. Applicant shall work with the United States Fish and Wildlife Service and the Arizona
21 Game and Fish Department to develop screening or other methods to protect wildlife
22 from harm at the Project's evaporation ponds. In addition, Applicant shall transmit
23 copies of its Aquifer Protection Permit application concurrent with the filing of same
24 to the United States Fish and Wildlife Service and the Arizona Game and Fish
25 Department.
- 26 21. Applicant shall utilize in the design, construction and operation of the second 500 MW
27 power block, solar technology for inlet cooling of both combustion turbines. Applicant
28 shall select such technology based on, but not limited to, Applicant's evaluation of initial
 installed cost, operating cost, and proven performance of the technology itself.

1 Applicant shall be released from any responsibility to revegetate land associated with
2 installation and operation of the solar application contemplated by this condition.

- 3 22. This authorization to site and construct the Project facilities shall expire five (5) years
4 from the date the Certificate is approved by the Commission unless construction is
5 completed and the plant is in operation. If construction on a power block has not begun
6 before expiration of the five-year limit, Applicant shall no longer be authorized to begin
7 construction on such power block. However, before such expiration Applicant may
8 request that the Commission extend this time limitation.

9 GRANTED this 3RD day of January, 2002.

10 Arizona Power Plant and Transmission Line
11 Siting Committee

12 By:

13 Laurie A. Woodall, Chair

14 Decision No. _____
15

16 219037.1
17

18 23 ABC
19

20 24.
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

APPROVED BY ORDER OF THE ARIZONA CORPORATION COMMISSION

Commissioner Commissioner Commissioner

In Witness Hereof, I, Brian C. McNeil, Executive Secretary of the Arizona Corporation Commission, set my hand and cause the official seal of this Commission to be affixed, this ____ day of _____, 2002.

By _____
Brian C. McNeil
Executive Secretary

Dissent: _____

219037.1